

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BRIGITTE STELZER,

Plaintiff,

- against -

RHIBOT ART LLC,

Defendant.

Docket No. 1:18-cv-4339

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Brigitte Stelzer (“Stelzer” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Rhibot Art LLC., (“Rhibot Art ” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Patsy Grimaldi, owned and registered by Stelzer, a New York based professional photographer. Accordingly, Stelzer seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Stelzer is a professional photographer in the business of licensing her photographs to online and print media for a fee having a usual place of business at 22-39 74th Street, East Elmhurst, NY 11370.

6. Upon information and belief, Rhibot Art is a foreign business corporation duly organized and existing under the laws of the State of New York, with a place of business at 33 Nassau Ave Unit 31, Brooklyn, NY 11222. Upon information and belief Rhibot Art is registered with the New York Department of State Division of Corporations to do business in the State of New York. At all times material, hereto, Rhibot Art has owned and operated a website at the URL: <http://dumbonyc.com> (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Stelzer photographed Patsy Grimaldi (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Stelzer then licensed the Photograph to the New York Post. On November 25, 2011 the New York Post ran an article that featured the Photograph entitled “Patsy Grimaldi coming out of retirement to open new pizzeria at soon-to-be vacant eponymous storefront.” See URL <https://nypost.com/2011/11/25/patsy-grimaldi-coming-out-of-retirement-to-open-new-pizzeria-at-soon-to-be-vacant-eponymous-storefront/>. Stelzer’s name was featured in a gutter credit identifying her as the photographer of the Photograph. A true and correct copy of the article is attached hereto as Exhibit B.

9. Stelzer is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-085-376 and titled “Stelzer, Patsy Grimaldi, 11_25_2011.jpg.” See Exhibit C

B. Defendant’s Infringing Activities

11. Rhibot Art ran an article on the Website entitled *Patsy Grimaldi’s Coming out of Retirement to Take Over Original Pizza Location in Dumbo*. See URL <http://dumbonyc.com/blog/2011/11/25/patsy-grimaldis-coming-out-of-retirement-to-take-over-original-pizza-location-in-dumbo/>. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit D.

12. Rhibot Art did not license the Photograph from Plaintiff for its article, nor did Rhibot Art have Plaintiff’s permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST RHIBOT ART)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Rhibot Art infringed Plaintiff’s copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Rhibot Art is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff’s copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Rhibot Art be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
July 31, 2018

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305

Valley Stream, New York 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Brigitte Stelzer